**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO.506 OF 2005**
**IN**
**SUMMARY SUIT NO.2990 OF 2002**

The Supreme Inds. Ltd. ..Plaintiffs.

Vs.

Vignahar S.S.K. Ltd.
& Ors. ..Defendants.

Mr.M.G.Mimani for the Plaintiffs.
Mr.C.Ardeshir i/b.Madekar & Co. for Defendant No.1.
Mr.Subodh Joshi for Defendant No.3.

**CORAM : S.J. VAZIFDAR, J.**
**DATED : 13TH DECEMBER, 2005**

**P.C. :**

The suit is filed to recover the price of goods sold and delivered by the Plaintiffs to Defendant No.1 in the manner stated hereafter. That the goods were supplied pursuant to the invoices and the delivery challans is not denied. That the goods were received by Defendant No.1 is not denied. There is a dispute regarding the quality of these goods.

2. Defendant No.1 has made full payment to Defendant No.3. By letter dated 11.2.1992 the Plaintiff appointed Defendant No.2 as its

distributor. Defendant No.2 was to appoint a dealer, one such dealer was Defendant No.3. There was no such privity of contract between Defendant No.1 and Defendant No.3. The letter expressly provided that if the material is supplied on credit to dealers and the payment is not made in time by the dealer, it is to be made good by Defendant No.2. Thus, as far as Defendant No.2 is concerned, there is no defence to the suit.

3. It was also contended on behalf of Defendant No.1 that it is not incorporated under the provisions of the Companies Act but it is a society registered under the Maharashtra Co-operative Societies Act.

4. In the circmstances, the Summons for Judgment is made absolute and the suit is decreed as prayed, as against Defendant No.2.

5. Defendant Nos. 1 and 3 are granted unconditional leave to defend the suit.

6. The suit is transferred to the list of commercial causes.

7. The Defendants to file their written statement within four weeks from today.

8. Discovery and inspection to be completed within six weeks thereafter.

9. Summons for Judgment stands disposed of accordingly.